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9  
10 UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 SOUTH HILL MARKET, a Washington  
13 entity; GEDION TEKLEMARIAM  
14 TESFA, an individual; and OGBAI  
15 GEBREMICHAEL TESFU, an  
16 individual,

17 Plaintiffs,

18 v.

19 UNITED STATES; and U.S.  
20 DEPARTMENT OF AGRICULTURE  
21 (USDA),

22 Defendants.

Case No. 2:19-cv-00073-SMJ

DEFENDANTS' ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' COMPLAINT

23 The United States and U.S. Department of Agriculture ("Defendants"), by and  
24 through Joseph H. Harrington, United States Attorney for the Eastern District of  
25 Washington, and Vanessa R. Waldref, Assistant United States Attorney, answer South  
26 Hill Market, Gedion Teklemariam Tesfa, and Ogbai Gebremichael Tesfu's  
27 ("Plaintiffs") Complaint (ECF No. 1) in the above-captioned action. The headings are  
28 included only for convenience and are not part of Defendant's Answer; to the extent  
that the headings in the Complaint make substantive allegations, Defendant denies the  
allegations.

**I. PARTIES, JURISDICTION AND VENUE**

1.1 Defendants lack information or knowledge sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 1.1 and, on that basis, deny them.

1.2 Defendants admit the allegations in Paragraph 1.2.

1.3 The allegations in Paragraph 1.3 purport to characterize and/or describe 7 U.S.C. § 2023 and 7 C.F.R. § 279.7, which speak for themselves and are the best evidence of their content.

1.4 The allegation in Paragraph 1.4 is a legal conclusion, which requires no response.

1.5 The allegation in Paragraph 1.5 is a legal conclusion, which requires no response. To the extent that a response is required, Defendants lack information or knowledge sufficient to provide a response.

**II. FACTS**

2.1 Defendants lack information or knowledge sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 2.1 and, on that basis, deny them.

2.2 Defendants admit the allegations in Paragraph 2.2.

2.3 Defendants admit that USDA's Food and Nutrition Service ("FNS") sent a letter to Plaintiffs on May 15, 2018. The remaining allegations in Paragraph 2.3 purport to characterize and/or describe the letter, which speaks for itself and is the best evidence of its content.

2.4 The allegations in Paragraph 2.4 purport to characterize and/or describe

1 the charging letter, which speaks for itself and is the best evidence of its content.

2 2.5 Defendants deny the allegations in Paragraph 2.5.

3 2.6 Defendants deny the allegations in Paragraph 2.6.

4  
5 2.7 The allegations in Paragraph 2.7 purport to characterize and/or describe 7  
6 C.F.R. § 278.2(h), which speaks for itself and is the best evidence of its content.

7 2.8 The allegations in Paragraph 2.8 purport to characterize and/or describe 7  
8 C.F.R. § 274.7(c), which speaks for itself and is the best evidence of its content.

9  
10 2.9 The allegations in Paragraph 2.9 purport to characterize and/or describe 7  
11 C.F.R. § 274.7(f), which speaks for itself and is the best evidence of its content.

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13 2.10 The allegations in Paragraph 2.10 purport to characterize and/or describe  
14 7 C.F.R. § 274.7(g)(4), which speaks for itself and is the best evidence of its content.

15 2.11 With respect to the allegations in Paragraph 2.11, Defendants admit that  
16 Plaintiffs' accountant submitted a letter to FNS dated May 25, 2018. The remaining  
17 allegations purport to characterize and/or describe the letter, which speaks for itself and  
18 is the best evidence of its content.

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20  
21 2.12 With respect to the allegations in Paragraph 2.12, Defendants admit that  
22 FNS issued a determination letter dated August 31, 2018, and that this letter  
23 permanently disqualified Plaintiffs from the Supplemental Nutrition Assistance  
24 Program ("SNAP"). Defendants deny the remaining allegations in Paragraph 2.12.

25  
26 2.13 With respect to the allegations in Paragraph 2.13, Defendants admit that  
27 Plaintiffs' accountant sent a letter to FNS requesting administrative review of FNS's  
28

1 decision to permanently disqualify Plaintiffs as an authorized SNAP retailer and that  
2 this letter was postmarked September 11, 2018. Defendants admit the allegations in the  
3 second sentence of Paragraph 2.13.

4 2.14 Defendants admit the allegations in Paragraph 2.14.

5 2.15 Defendants deny the allegations in Paragraph 2.15.

6 2.16 Defendants admit the allegations in Paragraph 2.16.

### 7 8 9 **III. CAUSES OF ACTION**

10 3.1 Defendants restate and incorporate by reference their responses to all  
11 preceding paragraphs.

12 3.2 The allegations in Paragraph 3.2 purport to characterize and/or describe 7  
13 U.S.C. § 2023 and 7 C.F.R. § 279.7, which speak for themselves and are the best  
14 evidence of their content.

15 3.3 Defendants deny the allegations in Paragraph 3.3.

16 3.4 Defendants deny the allegations in Paragraph 3.4.

### 17 18 19 **IV. PRAYER FOR RELIEF**

20 The remaining allegations (A. through C.) contain Plaintiffs' request for relief  
21 and therefore do not require a response. To the extent a response is required, the United  
22 States denies that Plaintiffs are entitled to any of the relief they seek.

#### 23 24 **General Denial**

25 Defendants deny any allegations of Plaintiffs' complaint, whether express or  
26 implied, not specifically admitted, denied or qualified herein.

**Affirmative and Other Defenses**

1  
2 1. Plaintiffs' Complaint fails to state a claim for relief upon which relief may  
3 be granted.

4  
5 2. The court lacks subject-matter jurisdiction over claims against USDA.

6 Defendants reserve the right to plead all other affirmative defenses, or any  
7 applicable state or federal statutes, which, through discovery, they learn may apply to  
8 this case.  
9

10 WHEREFORE, having answered Plaintiffs' complaint, Defendants respectfully  
11 request that this Court:

- 12  
13 a. Dismiss Plaintiffs' complaint with prejudice;  
14 b. Enter judgment against Plaintiffs and for Defendants;  
15 c. Award Defendants their costs in this action, and  
16  
17 d. Provide Defendants such other relief as this Court deems just and equitable.

18 RESPECTFULLY SUBMITTED: May 14, 2019.

19 Joseph H. Harrington  
20 United States Attorney

21  
22 s/Vanessa R. Waldref  
23 Vanessa R. Waldref  
24 Assistant United States Attorney  
25 Attorney for Defendant United States  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 14, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Seth Rosenberg  
Jimmy Garg

[seth@seattlelitigation.net](mailto:seth@seattlelitigation.net)  
[jimmy@seattlelitigation.net](mailto:jimmy@seattlelitigation.net)

And to the following non CM/ECF participants: N/A

s/ Vanessa R. Waldref  
Assistant United States Attorney